IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 128 OF 2005

WITH

CHAMBER SUMMONS NO. 212 OF 2005

IN

EXECUTION APPLICATION NO. 81 OF 2004

IN

SUM. SUIT NO. 2241 OF 1997

M/s. H.K. Industries .... Plaintiffs

vs.

M/s. Literate Wear ... Defendants.

And

Mrs. Minal Rajesh Shah .. Applicant.

Mr. Shevale M. i/by J.R. Vakil & Associates

for the plaintiffs.

Mr. R.R. Mishra for Applicant.

Mr. Kishor Jain & K.B. Poojari,

Official Assignee present.

Mr. M.D. Pawar, Insolvency Registrar present.

CORAM : S.U.KAMDAR, J.

DATE : 28th FEBRUARY,2005.

P.C.

. The present chamber summons is taken out under Order 21 rule 50 sub rule (2) of the Code of Civil Procedure, 1908 for executing the decree dated 6.11.2001 against the respondent being the partners of the defendants and for allowing the plaintiffs to amend the Execution Application in terms of the Schedule.

2. By consent of the parties, the chamber summons is taken on Board for hearing and final disposal.

3. The chamber summons No. 212 of 2005 is made absolute in terms of prayer clauses (a) and (b).

4. In so far as Chamber Summons No. 128 of 2005 is concerned, the said chamber summons is taken out by the applicant who is one of the partners of the erstwhile firm inter alia on the ground that she is a holder of 50% shares in Flat No. B-5, 2nd floor, Shivam Coop. Housing Society Ltd., S.V. Road, Vile Parle (West), Mumbai. It is the case of the applicant that she is a joint owner along with her brother-in-law Mr. Lalit M. Shah who has another 50% interest in the said flat. Mr. Lalit M. Shah has been adjudged insolvent by this Court by an order dated 5.12.2000. The Official Assignee who is present before me states that the report of the sale of the flat and appropriation of 50% share of the insolent is already made and is before the

learned Judge taking up Insolvency Matters. In view of the fact that the applicant is also claiming the balance 50% interest in the very same flat, it is necessary that both the matters of the Official Assignee and the present chamber summons be heard and disposed of by the same Judge. In view thereof, the Prothonotary and Senior Master is directed to place the matter before the Hon’ble the Chief Justice for appropriate directions in the matter.